

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

CIVIL ACTION NUMBER 1:07-CV-00953

RYAN McFADYEN, et al.,

Plaintiffs,

v.

DUKE UNIVERSITY, et al.,

Defendants.

**RENEWED MOTION TO DISMISS  
SECOND AMENDED COMPLAINT  
BY “DUKE UNIVERSITY  
DEFENDANTS”**

Pursuant to this Court’s Order of February 16, 2010 (Dkt. 135), Federal Rule of Civil Procedure 12(b)(6), and Local Rules 7.2 and 7.3, the “Duke University Defendants” submit this renewed Motion to Dismiss all claims asserted against them in Plaintiffs’ Second Amended Complaint for failure to state a claim on which relief may be granted.

The bases for this Renewed Motion to Dismiss were presented in previous briefing to this Court and, pursuant to this Court’s Order, are incorporated herein by reference, as follows:

1. Motion to Dismiss Amended Complaint by “Duke University Defendants” (Dkt. 45);
2. Memorandum in Support of Motion to Dismiss by “Duke University Defendants” (Dkt. 46);

3. Reply Brief in Support of Motion to Dismiss by “Duke University Defendants” (Dkt. 97); and

4. Joint Supplemental Brief of “Duke University Defendants,” “Duke SANE Defendants,” and “Duke Police Defendants” Regarding *Ashcroft v. Iqbal* (Dkt. 120).

The “Duke University Defendants” also hereby move the Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), and Local Rules 7.2 and 7.3, to dismiss all claims asserted against them in Count 41 of the Second Amended Complaint for failure to state a claim on which relief may be granted. The bases for dismissing Count 41 are presented in detail in the accompanying Supplemental Memorandum, which is being filed jointly on behalf of the “Duke University Defendants,” “Duke SANE Defendants,” and “Duke Police Defendants,” in accordance with this Court’s February 16, 2010 Order (Dkt. 135).

For the reasons set forth in the above-listed briefs, the “Duke University Defendants” respectfully request that all of the claims asserted against them in the Second Amended Complaint be dismissed with prejudice. The “Duke University Defendants” also renew their request that oral argument be scheduled on their Renewed Motion to Dismiss pursuant to Local Rule 7.3(c)(1).

Respectfully submitted, this 16th day of March, 2010.

/s/ Jamie S. Gorelick

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## **CERTIFICATE OF SERVICE**

I hereby certify that on March 16, 2010, I electronically filed the foregoing Renewed Motion to Dismiss Second Amended Complaint by the “Duke University Defendants” with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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This 16th day of March 2010.

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